

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA, In and for the County of Cochise

JUDGE: HONORABLE JAMES L CONLOGUE,
DIVISION: FIVE
COURT REPORTER: AARON SCHLESINGER
INTERPRETER: None

MARY ELLEN DUNLAP, Clerk of the Superior Court
 by: MICHELLE GARCIA (1/25/2018 8:24:06 AM), Deputy Clerk

HEARING DATE: 01/23/2018

STATE OF ARIZONA,

Plaintiff,

VS

DAVID JOSEPH DUFFY,

Defendant.

CASE NO: S0200CR201700136

MINUTE ENTRY: JURY TRIAL DAY ONE

HEARING START TIME: 8:35 AM

HEARING END TIME: 4:29 PM

State present by Roger Contreras, Deputy County Attorney
 Defendant present in person and by Ivan Abrams.

Prior to the commencement of proceedings, State's exhibits 1 through 23, and 28 through 32 were marked for identification.

THE RECORD MAY SHOW this case was called along with co-defendant DORA CELENA MATIAS, CR201700137, who is present in person. Mr. Abrams also represents Defendant Matias.

At 8:35 a.m. these matters came regularly before the Court for day one of trial before a jury. Present in the courtroom are Defendant Duffy, Mr. Abrams, Defendant Matias, Mr. Brereton, Mr. Contreras, and Case Officer Detective Marcus Anderson. The prospective jurors are not present.

Mr. Abrams stated that there was an issue regarding Mr. Carrillo's interviews and proposed that Mr. Contreras further research the number of times Mr. Carrillo had been interviewed and provide that information to the Court.

Upon inquiry by the Court, Mr. Contreras presented the State's position with regard to Defendants' Motion *in Limine* related to Facebook messages.

Mr. Abrams presented the position of the Defendants with regard to same.

Discussion was held with regard to exhibits 31A through 31Q7.

The Court will review the exhibits and make a decision regarding the Motion *in Limine*.

At 8:52 a.m. the Court called a brief recess in order to bring the prospective jurors to the courtroom.

- See Amendment filed -
 January 26, 2018

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At 9:03 a.m. proceedings resumed with the presence of Defendant Duffy, Mr. Abrams, Mr. Brereton, Defendant Matias, Mr. Contreras, and Case Officer Detective Anderson. The prospective jurors are present.

The Court invited to the front of the courtroom any juror with an emergency situation who would be unable to complete the jury selection process. No prospective juror came forward.

Upon direction of the Court, the clerk administered the oath on *voir dire* to the prospective jurors.

Upon direction of the Court, the clerk called the names of the first twenty-one (21) prospective jurors listed at random on the jury list, who were seated in the jury box as follows: viz:

- | | |
|---------------------|------------------------|
| 1. HEATHER FARTHING | 12. SALLY HAWK |
| 2. SARAH J. WIELAND | 13. DAWN NUETZEL |
| 3. EDWARD QUILLEN | 14. TINYO SANTOS |
| 4. ALFREDO ORTIZ | 15. SHEM SCOTT |
| 5. CATHY KEISER | 16. EDITH RIVERA |
| 6. GAYLE ZEHR | 17. JEANNIE DAVIS |
| 7. CHERIE MALCOLM | 18. STEPHANIE VILLEGAS |
| 8. PATTI BRIGHT | 19. DAVID LOVING |
| 9. CHERYL WOODY | 20. CHRIS DETERMAN |
| 10. HELEN ANTON | 21. SHALON HERSEY |
| 11. SHERRI WILSON | |

The Court addressed the prospective jurors with regard to the jury selection process and the trial schedule.

The Court questioned the panel generally and individually.

The Court introduced Mr. Contreras, who introduced Case Officer Detective Marcus Anderson.

The Court further questioned the panel generally and individually.

Juror number 14 TINYO SANTOS was excused for cause and duly called in her stead was juror number 22 MARIA LUTTSCHWAGER.

The Court further questioned the panel generally and individually.

Mr. Contreras recited the names of potential witnesses or persons involved in these matters.

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The Court further questioned the panel generally and individually.

Juror number 4 ALFREDO ORTIZ was excused for cause and duly called in his stead was juror number 23 JESSICA SARINANA.

The Court further questioned the panel generally and individually.

Mr. Contreras recited the names of the attorneys working in the county attorney's office.

The Court further questioned the panel generally and individually.

Mr. Abrams introduced himself and Mr. Brereton and recited the names of potential witnesses.

The Court further questioned the panel generally and individually.

Mr. Abrams recited the names of other persons involved in these matters.

The Court further questioned the panel generally and individually.

Juror number 15 SHEM SCOTT was excused for cause and duly called in his stead was juror number 24 KIM HYNES.

The Court further questioned the panel generally and individually.

Juror number 24 KIM HYNES was excused for cause and duly called in her stead was juror number 25 MARIA JACOBSON.

The Court further questioned the panel generally and individually.

Juror number 18 STEPHANIE VILLEGAS was excused for cause.

The Court further questioned the panel generally and individually.

Duly called was juror number 26 ROBERT KIRK.

The Court further questioned the panel generally and individually.

Juror number 10 HELEN ANTON was excused for cause.

The Court further questioned the panel generally and individually.

Juror number 23 JESSICA SARINANA was excused for cause.

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The Court further questioned the panel generally and individually.

Juror number 16 EDITH RIVERA was excused for cause.

Duly called were juror number 27 COLIN REGAN, juror number 28 MARY ELLEN DAMICO and juror number 29 KRISTOFFER ALSTATT.

The Court further questioned the panel generally and individually.

A juror requested a break.

At 10:01 a.m. the Court admonished the potential jurors with regard to discussing these matters with anyone, in any form and called the morning recess.

During the recess juror number 49 MONICA RUIZ was excused for cause.

At 10:15 a.m. proceedings resumed with the presence of Defendant Duffy, Mr. Abrams, Mr. Brereton, Defendant Matias, Mr. Contreras, and Case Officer Detective Anderson. The prospective jurors are present.

The Court further questioned the panel generally and individually.

Mr. Contreras conducted *voir dire*.

Juror number 21 SHALON HERSEY was excused for cause.

Mr. Contreras further conducted *voir dire*.

Duly called was juror number 30 PAUL HURST.

The Court questioned juror number 30 PAUL HURST.

Mr. Contreras further conducted *voir dire*.

Mr. Abrams conducted *voir dire*.

At the request of the Court, counsel approached the bench.

The Court announced that counsel passed the panel for cause.

The Court advised that counsel will make their final strikes during the lunch recess.

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The Court thanked the remaining jurors who were not formally called for their service, released them from the admonition and excused them from further service in these matters.

At 11:53 a.m. the Court reminded the jury pool not to discuss this matter and called the lunch recess with instructions to return at 1:30 p.m.

At 1:34 p.m. proceedings resumed with the presence of Defendant Duffy, Mr. Abrams, Mr. Brereton, Defendant Matias, Mr. Contreras, and Case Officer Detective Anderson. The prospective jurors are present.

At the direction of the Court, the clerk called the names of the nine (9) prospective jurors remaining on the jury list unchallenged. The following were the persons so called and who were duly sworn as the jury to try this case, vis:

- | | |
|-------------------|-----------------------|
| 1. SARAH WIELAND | 6. MARIA LUTTSCHWAGER |
| 2. CHERIE MALCOLM | 7. MARIA JACOBSEN |
| 3. PATTI BRIGHT | 8. COLIN REGAN |
| 4. SHERRI WILSON | 9. MARY ELLEN DAMICO |
| 5. JEANNIE DAVIS | |

The Court thanked the remainder of the prospective panel for their service, released them from the admonition and excused them from the courtroom.

The Court read the Preliminary Instructions aloud in Open Court. Said instructions were marked as Filed in Open Court.

At the direction of the Court, the clerk read the charges contained in the Indictments and the Defendants' pleas of not guilty.

Mr. Contreras presented opening statement.

Mr. Brereton presented opening statement.

The Court advised the jury that a stipulation had been reached and read said stipulation aloud in open court.

According to the stipulation, State's exhibits 25A through 25H were marked for identification and State's exhibits 25A through 25H and State's exhibit 32 were admitted into evidence.

Mr. Contreras called as a witness SERGEANT TIM WIEDEMANN, who was duly sworn and direct examined. During the witness' testimony, State's exhibits 2, 6, 8, 9 were admitted into evidence.

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At 3:02 p.m. the Court renewed the admonition and called the afternoon recess.

THE RECORD MAY SHOW the jury exited the courtroom and the door was closed. Remaining in the courtroom were Defendant Duffy, Mr. Abrams, Defendant Matias, Mr. Brereton, Mr. Contreras and Case Officer Detective Anderson.

Mr. Abrams objected to the State's current line of questioning and presented argument in support of his objection.

The Court inquired of and heard from Contreras regarding the line of questioning.

Discussion was held with regard to exhibits.

Counsel stipulated that the weight of the marijuana was 242 pounds. The Court will advise the jury of the stipulation.

At 3:06 p.m. the Court called the afternoon recess for those remaining in the courtroom.

At 3:18 p.m. proceedings resumed with the presence of Defendant Duffy, Mr. Abrams, Mr. Brereton, Defendant Matias, Mr. Contreras, and Case Officer Detective Anderson. The jury is present and seated in the box.

The Court advised the jury that counsel had stipulated that the marijuana in the vehicle on January 16, 2017 had a gross field weight of 242 pounds, in ten separate bundles. Gross field weight includes the weight of the marijuana, packing tape and cellophane.

Witness SERGEANT TIM WIEDEMANN was further direct examined, cross examined by Mr. Abrams and excused from further testimony.

Mr. Contreras called as a witness DETECTIVE MARCUS ANDERSON, who was duly sworn, and direct examined. During the witness' testimony, State's exhibit 24A was marked for identification and State's exhibits 22A-22M, 23 and 24A were admitted into evidence.

At 4:25 p.m. the Court renewed the admonition and recessed proceedings for the day, with instructions to return tomorrow morning at 9:00 a.m.

THE RECORD MAY SHOW the jury had exited the courtroom and the door had been closed.

Discussion was held with regard to potential witnesses.

Mr. Contreras addressed the Court with regard to Mr. Carrillo's interviews.

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At 4:29 p.m. the Court recessed proceedings for the day.

Following the conclusion of proceedings, State's exhibits 22A, 24A-25H and 26 were returned to Detective Anderson and an exhibits receipt was executed.

xc: e-mailed (e) by: mmg date: 1/25/18;

<input checked="" type="checkbox"/> County Attorney (e)	<input checked="" type="checkbox"/> I. Abrams, Esq. (e)	<input type="checkbox"/> Legal Defender	<input type="checkbox"/> CCSO/Jail	<input type="checkbox"/> CCSO/Warrants
<input type="checkbox"/> Court Administration	<input checked="" type="checkbox"/> DIV 5 JAA (e)	<input type="checkbox"/> APO	<input checked="" type="checkbox"/> Jury (e)	